



Appeal Decisions

Site visit made on 1 November 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13TH December 2023

Appeal A Ref: APP/G2625/W/23/3322595

4-6 Orchard Street, Norwich, Norfolk NR2 4PP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) Schedule 2, Part 3, Class MA of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Tristan Gordan against the decision of Norwich City Council.
 - The application Ref 22/01614/PA, dated 30 December 2022, was refused by notice dated 23 February 2023.
 - The development proposed is change of use from commercial (Class E) to dwellinghouses (Class C3) to provide 3 No. residential units.
-

Appeal B Ref: APP/G2625/W/23/3322600

4-6 Orchard Street, Norwich, Norfolk NR2 4PP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Tristan Gordon against the decision of Norwich City Council.
 - The application Ref 22/01615/F, dated 30 December 2022, was refused by notice dated 24 February 2023.
 - The development proposed is elevational amendments to support prior approval application (submitted under separate application Planning Portal Reference No. PP-11807691).
-

Decision

1. Appeal A is dismissed.
2. Appeal B is allowed and planning permission is granted for elevational amendments at 4-6 Orchard Street, Norwich, Norfolk NR2 4PP in accordance with the terms of the application, Ref 22/01615/F, dated 30 December 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans but only insofar as they relate to the elevational amendments. No permission is granted for the change of use shown on the floorplans: 1505-P-01; 1505-P-02 and 1505-P-03.

Preliminary Matters

3. There was no description of development on the application form for Appeal A. I have taken the description of development in the banner heading above from the appeal form, which is consistent with that used in the Council's decision notice. I have removed extraneous words from the description of development for Appeal B to accurately describe the proposed development.

4. The application form for Appeal B is clear that planning permission is sought for elevational amendments only, although the submitted plans show both the external alterations and the works proposed by Appeal A. The Council's reasons for refusal are essentially the same for both appeals and none expressly refer to the proposed elevational amendments. I have sought views from both parties on how Appeal B should be considered and the parties have maintained their opposing stances as set out in their statements.
5. I accept that both appeals need to be taken together to form the functional scheme. However, there is a clear distinction between what is sought through each, and it is my view that it is on this basis each should be considered. I have therefore considered Appeal B on the planning merits of the proposed elevational amendments alone.

Main Issues

6. The main issue for Appeal A is whether the proposal would be permitted development under Class MA, with particular reference to whether the proposed development meets the requirements of the nationally described space standard (NDSS).
7. The main issue for Appeal B is the effect of the development on the character and appearance of the area.

Reasons

Appeal A - Nationally Described Space Standard

8. Under Article 3(1) and Schedule 2, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), planning permission is granted for the change of use of a building from a use falling within Class E (commercial, business and service) to a use falling within Class C3 (dwellinghouses) subject to limitations and conditions. This includes the requirements of Article 3(9A) of the GPDO which does not permit any new dwellinghouse where the gross internal floorspace is less than 37sq m or there is not compliance with the NDSS.
9. I have no reason to dispute the appellant's calculations in principle with respect to the gross internal floor area that would be provided by each of the proposed dwellings. All would be in excess of the 58sqm required for a one-bed, two-person two storey dwelling.
10. However, the plans submitted to the Council do not fully demonstrate the floor to ceiling height for each of the proposed dwellings and how these relate to the proportions of floorspace. Furthermore, there is an inconsistency between these plans and the information in the appellant's evidence with respect to the ceiling height at first floor level. I consequently cannot be certain that there is a minimum floor to ceiling height of 2.3m for at least 75% of the gross internal area as required by paragraph 10.i of the NDSS.
11. Furthermore, no built-in storage space is shown on the floor plan for flat 1. Table 1 of the NDSS requires a minimum 1.5sq m of built in storage for a dwelling such as that proposed here. The appellant has confirmed that this would be provided under the stairs in their written evidence, but has not specified the area this would provide. Paragraph 10.f of the NDSS advises that if the area under stairs is to be used for storage, then a general floor area of

1sq m should be assumed. Flat 1 would therefore not meet the requirements for built in storage as required by the NDSS.

12. For these reasons, the proposed development would not be permitted development under Article 3(1) Schedule 2, Part 3, Class MA of the GPDO as it would not comply with the requirements of Article 3(9A). Consequently, I do not need to consider further the other prior approval matters raised by the Council when refusing the application.

Appeal B – Character and Appearance

13. The Council's evidence does not identify any harms arising from the proposed works. From my observations at my site visit, I have no reason to disagree. The buildings in the surrounding area are not consistent in their scale, appearance or materials. The existing building is neutral in the wider street scene due to its limited scale and colour treatment which is well related to that of the attached property. The proposed alterations would introduce new composite timber cladding as a material to this elevation. This would be limited in its scale and extent and would not be capable of integrating into the surrounding palette of materials, as would the proposed roof treatment. The remaining alterations would be appropriately scaled to the building.
14. I therefore consider the proposed development would have an acceptable effect on the character and appearance of the surrounding area. It would therefore be in accordance with Joint Core Strategy for Broadland, Norwich and South Norfolk (adopted March 2011, amendments adopted January 2014) Policy 2 and Norwich Development Management Policies Local Plan (December 2014) Policy DM3 which, taken together and insofar as they relate to this appeal, require development to demonstrate appropriate consideration has been given to the selection and choice of materials. It would also be in accordance with the requirements of Section 12 of the National Planning Policy Framework (the Framework) which, insofar as it relates to this appeal, requires development to be of a high quality.

Other Matters

15. Article 3(1) of the GPDO grants permission for the development described as permitted development in Schedule 2 subject to Regulations 75-78 of The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations). These operate together to impose a pre-commencement condition on all development that is permitted by the GPDO and would affect a European site. This has the effect that the development cannot be lawfully begun until the developer has made an application under Regulation 77 of the Habitats Regulations and received written notification from the local planning authority to the effect that the development would have no adverse effect on the integrity of the European site.
16. However, there is no requirement with respect to the order in which these processes must happen. The requirements of both procedures must be met before the development can be lawfully begun. This therefore would not merit the refusal of Appeal A. As Appeal B would not create any new units of accommodation as it is for elevational amendments only, the Habitats Regulations would not be engaged.

Conditions

17. In relation to Appeal B, the Council has suggested conditions should it be allowed. I have had regard to these in light of the tests set out in paragraph 56 of the National Planning Policy Framework. I have imposed the standard conditions in relation to the commencement of development and approved plans in the interests of certainty.
18. However, I have amended the approved plans condition to ensure the scope of the permission is clear. The approved details are those that relate to the elevational amendments only. No permission has been granted for the change of use shown on the floorplans. I consider this to be reasonable and necessary.

Conclusion

19. For the reasons given above, Appeal A is dismissed.
20. For the reasons given above, Appeal B is allowed subject to conditions.

J Downs

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/G2625/W/23/3322595	Mr Tristan Gordan
Appeal B	APP/G2625/W/23/3322600	Tristan Gordon